

Addressing HMRC's increasingly assertive stance on R&D tax credit claims and enquiries



As a genuine claimant, what should you know and what should you do?

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June 2022

Background

In the last 18 months, the Treasury (HMT), National Audit Office (NAO) and HMRC have all become increasingly concerned about potential misuse of the R&D tax relief scheme. HMRC are now activating a series of new measures to address their concerns.

At Easy R&D we fully support these initiatives. They might appear burdensome, but they are designed to weed out high-quality claims from those that are spurious, incorrect or even fraudulent.

More stringent standards and checks are also making it increasingly clear that working with high-quality professional advisors, will deliver a long-term dividend to your business. Specialists who can give you expert advice on a claim, offer support for best-practice record-keeping, and will assist you in the event of an HMRC enquiry, appear to be even more differentiated and valuable than ever.

Our belief is that a very great majority of the over 80,000 R&D tax relief claims, made each year, are entirely valid. However, genuine claimants will still need to be more aware and proactive in terms of both evidencing and defending claims from enquiries.

As HMRC focus on disincentivising, identifying and penalising invalid claims, we are beginning to see clarification of policies, the introduction of new payment caps and an active ramping-up of their pool of compliance staff.

As a result, in spring 2022, there has been a slowing down in the processing of claims and payments, as HMRC significantly increases the level of scrutiny and enquiries.

What does this mean for your business, and what you should you do about these changes?

Processing Claims, Payments and Enquiries

First, you need to understand how HMRC manages claims and how it operates enquiries.

R&D tax credit claims are processed under a 'process now, check later' system. HMRC can raise an enquiry up 12 months after the submission of a tax return.

This means that after a claim is accepted and payment made, a company still needs to be fully prepared to answer queries from HMRC, with all the records in good order and a well-founded rationale with evidence, for their claim, should an investigation be opened.

Not being able to comply with HMRC's information requests, or processing an invalid or erroneous claim, can be grounds for HMRC raising what could be significant penalties. Also, not being prepared for a potential enquiry, means that even with a valid claim, the burden of an enquiry can be very material, using up a lot of valuable senior management time.

HMRC do check numerous claims and some of these claims will be entirely legitimate. So, an enquiry does not necessarily mean that HMRC have suspicions or there is a problem with a claim. As mentioned earlier, the level of HMRC enforcement and compliance checks is increasing, and therefore, the need to proactively be prepared or protected against an HMRC enquiry, when your claim is 100% legitimate and evidenced, is even greater than before.

New Caps on Payments

As part of an initiative to stop inflated or fraudulent claims, in 2021, HMRC set new caps on the amount of R&D tax relief that could be claimed, based on the size of a company's payroll. The payment cap is set at 300% of the value of the employee payroll, including PAYE and National Insurance Contributions. This limit begins to apply after what is called a buffer £20,000 claim value is reached.

Setting this new cap was designed to stop micro-businesses, with limited or no payroll, from making inflated claims on R&D tax credits.

This move effectively stops – at source – one type of fraudulent claim. If you are a business that uses a substantial level of outsourced contractor resource for R&D, and you have a small payroll, this new policy will have a marked impact on what you can claim and could make the claim process more complex.

HMRC Guidance on Best Practice

HMRC have recently released simple guidance on best practice in making a claim.

As ever, the first line of defence, and something we do at Easy R&D for every customer when making an R&D claim, is to provide the fullest and clearest support and technical evidence for your claim, complying fully with HMRC guidance and processes.

Here is our interpretation of the latest HMRC guidance:

- **Patience**
HMRC is asking for claimants and agents to have patience around their claim processes, checks and payments. This suggests that the current slower and more thorough checking processes, for legitimate claimants, will continue.
- **Contact via www.gov.uk**
HMRC have asked that both claimants and agents do not contact HMRC to check on the progress of their claims. Instead, they ask that all checks on progress are to be made via the online [gov.uk](http://www.gov.uk) HMRC Corporation Tax account.
- **Correct use of CT600**
HMRC advise that all claims should be made on the appropriate R&D section of the Corporation Tax return, CT600.
- **Technical evidence**
HMRC underline that each claim should be supported by sufficient evidence, with additional information such as an R&D technical report, that helps HMRC to validate and process the claim.
- **No back channels**
This point on contact protocols underlines that an intervention from an agent in the claim validation process is unlikely to have any influence on the speed of the process or the outcome. In fact, any agent or advisor who suggests that they can accelerate or influence the speed of an HMRC R&D tax relief claim process, we believe, should be treated with care or even suspicion.

If you have any questions on the latest HMRC guidance or the progress of a claim or payment, our consultants and technical tax experts are here to support you on current claims, past claims or even an active HMRC enquiry.

A few simple questions

In the new climate for R&D tax claims we suggest asking yourself a few simple questions that will help you identify the best course of action for your company or your claims:

360° Support

Is your R&D tax credit advisor willing and prepared to support your company before, during and after every R&D tax credit claim?



Balance of risk vs reward

Does your advisor seek to maximise or optimise your claim value along with any associated risks?



Best-practice record keeping

What advice and services will you receive on best-practice record-keeping, that will help you when making and evidencing a claim?



Technical prowess

What level of technical expertise does your advisor or accountant have in R&D tax relief and the evolving landscape of HMRC policies?



Resource depth

Does your advisor have the depth of consulting, claims management and record-keeping resources to be able to fully support you in an enquiry?



Indemnification

In the event of a claim, will your advisor indemnify you against the cost of any necessary professional advice and will they proactively help you?



With the heightened and ongoing scrutiny on R&D tax relief claims, it is increasingly important to have the support of high-calibre professional advisors, before, during and after any claim.

If you feel that your current advisor is not positioned to provide this level of service, or you are managing your own claims and want a professional advisor to work with you on your R&D tax relief claims, we would be delighted to hear from you.

R&D tax relief remains one of the most important and valuable tax credit schemes for UK SME's, stimulating much needed investment and risk-taking in research and innovation. HMRC is rightly seeking to minimise misuse, errors and fraud. Our stance is: be aware, be prepared and work with professional advisors who will stick with you, optimise the benefit and limit risks, at every step.

Whether you are a first-time claimant, have claimed already, or you are facing an HMRC enquiry, the UK-wide Easy R&D experts are set up to guide and support you and your company on how to make the most of R&D tax relief. We also fully cover the professional advisor costs of any HMRC enquiry on a legitimate claim that we have submitted on behalf of a customer.

If you have any questions on R&D tax credits or how, at Easy R&D, we deliver our industry-leading advice and services, please do get in touch.